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FEB 17 2009

DIRECTOR OFFICE
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In re Application of:
MAN-HAK TSO, MICHAEL et al.
Application No. 10/735,696
Filed: December 16, 2003
For: STATELESS MESSAGE ROUTING

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed January 28, 2009 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the finality of the rejection mailed January 22, 2009.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office Action mailed January 22, 2009. In the petition, Applicant's counsel alleged that the finality of the office action was improper because the Examiner introduced a new ground of rejection in the Final Office Action that was neither necessitated by applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement.

A review of the file indicates that no IDS was submitted to cause the new grounds of rejection, and that the amendment of October 08, 2008 did not necessitate the new rejection of claim 23 under 35 U.S.C. § 101. Therefore, the finality of the January 22, 2009 Office action is improper and hereby withdrawn. Because the error does not affect applicant's ability to reply to the Office action, the period for response continues to run from January 22, 2009.

Accordingly, the petition is **GRANTED**.

Any inquiry concerning this decision should be directed to Chau Nguyen at (571) 272-3126.

Valencia Martin-Wallace
Director
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